# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/722,576 | 11/28/2000 | Gasper Hernandez III | 2925-0485P | 5411 |

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| 30594      7590      05/05/2006 | **EXAMINER** |
| HARNESS, DICKEY & PIERCE, P.L.C. | ROCHE, TRENTON J |
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| ART UNIT | PAPER NUMBER |
|---|---|
| 2193 | |

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 09/722,576 | HERNANDEZ, GASPER |
| | Examiner | Art Unit |
| | Trenton J. Roche | 2193 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
> - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
> - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
> - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on <u>27 October 2005</u>.

2a) ☐ This action is **FINAL**.    2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) <u>1-33</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-4,7-10 and 13-33</u> is/are rejected.

7) ☒ Claim(s) <u>5,6,11 and 12</u> is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>15 August 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

## DETAILED ACTION

1.     This Office Action is responsive to the Pre-Appeal Brief Request For Review filed 27

October 2005.

2.     Claims 1-33 are currently pending.

### *Allowable Subject Matter*

3.     Claims 5, 6, 11 and 12 are objected to as being dependent upon a rejected base claim, but

would be allowable if rewritten in independent form including all of the limitations of the base claim

and any intervening claims.

### *Claim Rejections - 35 USC § 102*

4.     The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.     Claims 1, 2, 8, 10, 13, 14, 18, 20-24, 26 and 28-33 are rejected under 35 U.S.C. 102(e) as

being anticipated by U.S. Patent 6,085,227 to Edlund et al. (hereinafter "Edlund").

**Per claims 1, 2, 8, 10, 13, 14, 18, 20-23, 30 and 32:**

Edlund discloses:

- the server providing a first web page to said web browser running on said remote terminal, the first web page being configured to accommodate a set of commands that are to be contained in a script or program ("the client computer 102 initializing the browser...accessing servers and pages on the internet, including the proxy server computer 104 and the device server computer...waiting for the next input from the user...receipt of a Web Scope command invoked by the user..." in col. 5 lines 47-63)

- the server receiving a request, including said set or a version thereof, from said web browser at the remote terminal (transmission of commands from the user to the remote device..." in col. 4 lines 25-26)

- the server doing at least one of checking the syntax of said set and executing said set ("When a command from the user is authorized...the task manager 120 stores these commands...in a priority queue...The command processor 122...polls the queue 126 for input, and receives one command at a time and sends it to the device...for execution." in col. 5 lines 12-29)

- the server providing at least a first version of a second web page to said remote terminal that includes results generated by the check for syntax or execution of said set ("Results and status information from the remote device...are broadcast to all observing users." in col. 5 lines 29-33)

substantially as claimed. Furthermore, the server would compile the web transmission such that the command can be extracted and executed by the device.


**Per claims 24, 26, 28 and 29:**

Edlund discloses:

- the server receiving a request from said web browser at the remote terminal to execute said executable file on said server, the server executing said executable file thereby causing said separate system to be tested or manipulated to change operation thereof ("When a command from the user is authorized...the task manager 120 stores these commands...in a priority queue...The command processor 122...polls the queue 126 for input, and receives one command at a time and sends it to the device...for execution." in col. 5 lines 12-29)

- the server providing at least a first version of a web page to said remote terminal that includes results generated by the execution of said executable file ("Results and status information from the remote device 106 are sent back...by the command processor 122, which ensures that the results and status information are broadcast to all observing users." in col. 5 lines 29-33. A web page is inherently provided so that the browser users can view the results.)

substantially as claimed. The execution of the file would "bring the file into existence" in memory.


**Per claims 31 and 33:**

Edlund further discloses the server providing a set of commands to the user, wherein the user submits an edit list of commands as claimed ("a user can control...device specific parameters..." in col. 3 lines 53-54. As the commands are all device specific, the server must indicate to the user what specific commands are available. Consequently, the server would provide only those commands applicable and the user would choose from those.)

### Claim Rejections - 35 USC § 103

6.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.      Claims 3, 4, 7, 9, 15, 16, 17, 19, 25 and 27 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Edlund in view of "Reading CGI Data: url-encoding and the CGI protocol" by

Morton.


**Per claims 3, 4, 7, 9, 15, 16, 17, 19, 25 and 27:**

Edlund discloses a system wherein a remote device can be controlled by a user via a browser over

the Internet. However, Edlund does not explicitly disclose utilizing a CGI script and extracting a

CGI variable corresponding to a method GET or POST. Morton discloses that it was well known in

the art at the time the invention was made to use a form in a browser to report variables and point

to an executable CGI script along with the specified variables used by the executable script ("If you

append a question mark (?) to the url of your script, then any characters after the question mark will

be passed to your script..." on pages 1 and 2, section titled 'The Query_String and Method Get'.

Morton discloses the execution of scripts and scripting files, and as the claims offer no particular use

of or unique function of the WAMIL scripting language which would indicate any reason a standard

script could not be used, the specific use of WAMIL is not given patentable weight.). It would have

been obvious to one of ordinary skill in the art at the time the invention was made to utilize a URL

with CGI variables during the steps of sending commands to the server of Edlund via the Internet,

as this would enable utilization of well established Internet standards and allow a user to submit

answers to forms and enable the web server to parse and acquire the data associated with the form,

as noted on page 1 of Morton.

Edlund further discloses that the plurality of computers are connected by a network comprising

either a LAN, WAN, Internet, etc. (col. 2 lines 53-54). Edlund does not explicitly disclose the use of

a wireless communications network. Official Notice is hereby taken that at the time the invention

was made, the use of wireless communication networks in place of wired networks such as LAN's

was well known to one of ordinary skill in the art. Consequently, it would have been obvious to one

of ordinary skill in the art at the time the invention was made to utilize a wireless communications

network with Edlund as this would enable the computers to have greater flexibility in their location

by not requiring them to be wired to a network outlet.

### *Response to Arguments*

8.      Applicant's arguments, see "First Rejection For Which Conf. Requested" of the Pre-Appeal

Brief Request For Review, filed 27 October 2005, with respect to the rejection(s) of claim(s) 1 and

13 under 35 U.S.C. § 103(a) have been fully considered and are persuasive. Therefore, the rejection

has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in

view of alternate prior art of record. However, Applicant's arguments, see "Second Rejection For

Which Conf. Requested" of the Pre-Appeal Brief Request For Review, with respect to the rejection

of claims 24 and 26 under 35 U.S.C. § 102(e) are not persuasive.

**Regarding claims 24 and 26:**

Applicant states that Edlund does not teach receiving a request...to execute an executable

file resident on a server. The Applicant notes that, instead, Edlund discloses "receiving a command,

at a server via a web browser, for a previously initialized program running on the server." (page 4 of

the Pre-Appeal Brief), and that a system receiving commands for a "previously initialized" program

is different than a request "to execute" a file or program.

As an initial matter, the Examiner notes that characterization of Edlund disclosing a

"previously initialized program running on the server" (page 4 of the Pre-Appeal Brief) is never

actually made in the disclosure of Edlund; indeed, the phrase "previously initialized" is never even

mentioned. While Edlund may not explicitly state that the program running on the server is not

(emphasis added) executing, Edlund does not preclude the possibility of that being the case,

subsequently, the assertion by the Applicant that the program of Edlund "already has been loaded

and...is already running" (page 4 of the Pre-Appeal Brief) is an inference at best.

Subsequently, the Examiner interprets the claim language as not precluding the possibility of

a previously executing or otherwise pre-initialized program. A program running or executing, which

receives a command so that the running program can perform some type of operation, is still

receiving instructions directing the program to execute (emphasis added) in some manner. The

phrase "receiving a request...to execute said executable file..." provides no basis to Applicant's

assertion that the program must not be currently running or executing, as a currently executing

program can be directed to execute (emphasis added) in accordance with given instructions and

requests. Furthermore, as the command issued by the user through the browser is processed by a

command processor and subsequently sent to the device for execution (note col. 5 lines 26-29), the

command issued to the device must inherently direct some resident software of the device server to

execute in order to perform the command. Consequently, Applicant's arguments are not found to be

persuasive and the rejection of claims 24 and 26 is proper and maintained.

### *Conclusion*

9.      The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

10.     Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Trenton J. Roche whose telephone number is (571) 272-3733. The examiner

can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where

this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system,

see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system,

contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Trenton J Roche
Examiner
Art Unit 2193

TJR

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